

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JIMMY INNOCENT,

Plaintiff,

-against-

**DECLARATION OF  
SUSAN P.  
SCHARFSTEIN**

07 CV 4795 (NRB)

THE CITY OF NEW YORK, THE NEW YORK  
CITY POLICE DEPARTMENT, AND Unknown  
Police Officers "JOHN DOE A-Z" individually and  
in their capacities as Police Officers of the NYC  
Police Department,

(filed by ECF)

Defendants.

-----X

**SUSAN P. SCHARFSTEIN**, declares pursuant to 28 U.S.C. § 1746, under penalty of perjury, that the following is true and correct.

1. I am an attorney in the office of Michael A. Cardozo, Corporation Counsel of the City of New York, counsel for defendants City of New York and the New York City Police Department. As such, I am familiar with the facts stated below and submit this declaration to place the relevant information and documents on the record in support of defendants' motion for summary judgment dismissing this action in all respects as against all defendants pursuant to Rule 56 of the Federal Rules of Civil Procedure.

2. Attached as Exhibit A is a copy of the Complaint in this action that was filed with the Court on June 5, 2007.

3. Attached as Exhibit B is a copy of plaintiff's arrest report for June 25, 2006.

4. Attached as Exhibit C is a copy of a complaint report related to the underlying incident dated June 25, 2006.

5. Attached as Exhibit D are copies of property clerk's invoices related to the property recovered from plaintiff and the location of his arrest on June 25, 2006.

6. Attached as Exhibit E are copies of New York City Police Department reports reflecting recovery and analysis of firearms and marijuana recovered from the location of plaintiff's arrest on June 25, 2006.

7. Attached as Exhibit F is a copy of an affidavit in support of a search warrant dated June 26, 2006, reflecting, among other things, the circumstances and events surrounding plaintiff's arrest on June 25, 2006.

8. Attached as Exhibit G is a copy of a search warrant for 31 West 138<sup>th</sup> Street, New York, New York, signed by a state court judge on June 26, 2006.

9. Attached as Exhibit H is a copy of a criminal court affidavit dated June 27, 2006, reflecting, among other things, the circumstances and events surrounding plaintiff's arrest on June 25, 2006.

10. Attached as Exhibit I is a copy of the People's Voluntary Disclosure Form in People v. Jimmy Innocent, et al., Indictment No. 2840/2006, dated July 24, 2006, reflecting, among other things, the circumstances and events surrounding plaintiff's arrest on June 25, 2006.

11. Attached as Exhibit J is a copy of the grand jury indictment in People v. Jimmy Innocent dated July 5, 2006.

12. Attached as Exhibit K is a copy of plaintiff's motion papers submitted in People v. Jimmy Innocent, et al., Indictment No. 2840/2006, dated September 5, 2006.

13. Attached as Exhibit L is a copy of the People's Affirmation in response to plaintiff's motion, dated September 15, 2006.

14. Attached as Exhibit M is a copy of the state court judge's decision dated September 21, 2006, dismissing the indictment against plaintiff on the grounds that there was "an absence of legally sufficient evidence establishing that defendant Innocent constructively possessed any of the items of contraband recovered from the apartment."

15. Attached as Exhibit N is a copy of the certificate of disposition of the criminal charges against plaintiff, reflecting that the charges were dismissed and sealed on September 26, 2006.

16. Attached as Exhibit O is a copy of a document purporting to be a notice of claim that was received by the Comptroller's Office of the City of New York on or about November 30, 2006.

17. Attached as Exhibit P is a copy of excerpts of the hearing of plaintiff held pursuant to 50-H of the New York General Municipal Law on February 2, 2007.

18. Attached as Exhibit Q is a copy of excerpts of the transcript of plaintiff's deposition held on May 8, 2008.

19. Attached as Exhibit R is a copy of excerpts of the transcript of the deposition of Police Officer Brian Moore held on May 6, 2008.

Dated: New York, New York  
July 21, 2008

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SUSAN P. SCHARFSTEIN

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**DECLARATION OF SUSAN P. SCHARFSTEIN**

***MICHAEL A. CARDOZO***

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Attorney for Defendants City of New York and  
the New York City Police Department  
100 Church Street  
New York, N.Y. 10007  
Of Counsel: Susan P. Scharfstein (SS 2476)  
Tel: (212) 227-4071  
NYCLIS No.:*

*Due and timely service is hereby admitted.*

*New York, N.Y. ...., 200...*

*..... Esq.*

*Attorney for.....*